

REMARKS

Summary of the Office Action

Claim 15 stands objected to as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Claims 1-5 stand rejected under 35 U.S.C. § 102(b) as being anticipated by European Patent EP 1016777 A2 to Jobson et al. ("*Jobson*").

Claims 9-10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Jobson*.

Claims 6-7 and 11-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Jobson* in further view of U.S. Patent 6,409,864 B1 to Choi ("*Choi*").

Claims 17-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Jobson* and *Choi* in further view of U.S. Patent 3,679,062 to Burkhardt ("*Burkhardt*").

Claims 8 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Jobson* and *Choi* in further view of Japanese Patent JP 11-264679 to Kurematsu ("*Kurematsu*").

Summary of the Response to the Office Action

Applicants have amended the specification. Applicants have amended claims 1-3 and 8-10. Applicants have added claims 21-24. Applicants have cancelled claim 13. Accordingly, claims 1-12 and 14-24 are pending.

The Objection to Claim 15

Claim 15 stands objected to as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicants respectfully traverse the objection.

Claim 14 recites a combination wherein the surface of the heat transfer material is partly opened to form a fluid forwarding space portion. By contrast, claim 15 recites a combination wherein the end of the heat transfer material is partly cut away to form a fluid forwarding space portion. Claim 14 recites combinations in addition to those of claim 15, such as claim 16. Thus, claim 15 is further limiting than claim 14. Accordingly, Applicants respectfully request the objection to claim 15 be withdrawn.

The Rejection under 35 U.S.C. § 102(b)

Claims 1-5 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Jobson*. Applicants respectfully traverse the rejections for at least the following reasons.

As pointed out in MPEP § 2131, “[t]o anticipate a claim, the reference must teach every element of the claim.” Thus, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros., Inc. v. Union Oil Co. of California*, 2 U.S.P.Q2d 1051, 1053 (Fed. Cir. 1987). For the reasons discussed below, the cited reference *Jobson* fails to teach every element of each of amended independent claims 1-3. Therefore, neither these claims, nor the claims that depend therefrom are anticipated by *Jobson*. Accordingly, Applicants respectfully request the rejection to claims 1-3 and the claims that dependent therefrom be withdrawn.

Claim 1, as amended, recites a combination including a heat transfer material which separates the high temperature fluid and the low temperature fluid from each other throughout the heat exchanger. Applicants respectfully submit that *Jobson* does not teach this feature. Rather, in *Jobson*, the low temperature fluid and the high temperature fluid communicate with

each other at the reversing chamber. See paragraph 26 and figure 2. As such, Applicants respectfully assert that amended independent claim 1 is allowable.

With respect to independent claim 2, as amended, Applicants respectfully submit that *Jobson* fails to disclose a functional material selected from the group of an adsorbent and a heat storage material provided in the gap portion of the bellows section of the heat transfer material separately of the heat transfer material. Because some of the features of claim 13 have been incorporated into amended claim 2, Applicants address the rejection of claim 13. The Office Action alleges that *Jobson* teaches a functional material such as adsorbent and heat storage material provided in the gap portion of the bellows section of the heat transfer material. However, *Jobson* fails to teach the feature that the functional material is provided separately of the heat transfer material. At most, *Jobson* teaches a functional material provided on the carrier walls. Because *Jobson* fails to teach or suggest each and every element of amended claim 2, Applicants respectfully assert that amended independent claim 2 is allowable. Further, Applicants respectfully assert that dependent claims 11-12 and 14-19 are allowable at least because of their dependency from claim 2 and the reasons set forth above.

Applicants respectfully submit that amended independent claim 3 is allowable at least for the same reasons amended independent claim 2 is allowable. Further, Applicants respectfully assert that dependent claims 4-8, and 20 are allowable at least because of their dependency from claim 3.

The Rejections under 35 U.S.C. § 103(a)

Claims 9-10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Jobson*. Applicants respectfully traverse the rejections for at least the following reasons.

For at least the reasons below, Applicants respectfully assert that *Jobson* neither teaches nor suggests each and every feature of independent claims 9 and 10. As such, Applicants respectfully assert that the Office Action has failed to show *prima facie* obviousness.

With respect to claim 9, the Office Action alleges that it would have been obvious to use a heat radiating plate instead of a heating coil. Applicants respectfully disagree. Claim 9 recites a combination including a burner which adds heat to the fluid forwarding space portion and a heat radiating plate which radiates heat to the exterior. The heat radiating plate in the claimed invention is not used to supply heat to the fluid forwarding space portion. Thus, the means of supplying heat to a fluid forwarding portion disclosed in prior art would not prompt one of ordinary skill in the art to use a heat radiating plate to radiate heat to the exterior. Further, the claimed invention provides for two distinct elements: a burner and a heat radiating plate. Therefore, if the burner of the claimed invention is disclosed by the optional heating element of *Jobson*, the optional heating element cannot simultaneously disclose a separate feature—a heat radiating plate. Thus, *Jobson* would not prompt one of ordinary skill in the art to use a heat radiating plate. Therefore, *Jobson* neither teaches nor suggests each and every feature of independent claim 9.

Similarly, with respect to independent claim 10, *Jobson* neither teaches nor suggests a heat radiating plate.

Because *Jobson* does not teach or suggest each and every feature of independent claims 9 and 10, Applicants respectfully request that the rejections under 35 U.S.C. § 103(a) be withdrawn.

Claims 6-7 and 11-16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Jobson* in further view of *Choi*. Applicants respectfully assert that dependent claims 6-7 and 11-16 are allowable at least because of their dependencies from claims 2 and 3, which are allowable for the reasons discussed above. *Choi* fails to overcome the deficiencies of *Jobson*, and thus, the combination fails to teach or suggest all the limitations of amended independent claims 2 and 3.

Claims 17-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Jobson* and *Choi* in further view of *Burkhart*. Applicants respectfully assert that dependent claims 17-19 are allowable at least because of their respective dependency from amended independent claim 2. *Burkhart* fails to overcome the deficiencies *Jobson* and *Choi*, and thus, the combination fails to teach or suggest all the limitations of amended independent claim 2.

Claims 8 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over *Jobson* and *Choi* in further view of *Kurematsu*. Applicants respectfully assert that dependent claims 8 and 20 are allowable at least because of their respective dependencies from claim 3, which is allowable for the reasons discussed above. *Kurematsu* fails to overcome the deficiencies of *Jobson* and *Choi*, and thus the combination fails to teach or suggest all the limitations of amended independent claim 3.

CONCLUSION

In view of the foregoing, Applicants respectfully request reconsideration of the application and the timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of the response; the Examiner is invited to contact the Applicants' undersigned representative to expedite prosecution.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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